IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

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WRIT PETITION NO : 19063 of 1995

Between:

1. Narayan Reddy s/o Bhoom reddy, Aged: 55 years (Died per L.Rs.)
2. G. Anasuya W/o.Late Narayan Reddy, Aged: 60 years.
3. G.Ramachandra Reddy S/o.Late Narayan Reddy, Aged: 39 years.
4. G.Srinivas Reddy S/o.Late Narayan Reddy, Aged: 36 years.
5. G.Ram Reddy S/o.Late Narayan Reddy, Aged: 34 years.
6. G.Laxmikanth Reddy S/o.Late Narayan Reddy, Aged: 32 years.

All are R/o.Vadalparthy village, Nagireddypet Mandal, Nizamabad District.

(Petitioners No.2 to 6 are brought on record as L.Rs. of deceased petitioner No.1 as per Court orders in WPMP.No.26360 of 2004, dt.03.02.2005)

..... PETITIONERS

AND

1 The Joint Collector, Nizambad.
2 LAMBADA RAMULU S/O LATE SAKRU R/O PARAMALLA VILLAGE,

LINGAMPET MANDAL NIZAMABAD DISTRICT.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate writ or writs, order or direction, declaring and setting aside the order dated 20/7/95 passed in Case No.D5/5/95 on the file of the 1st respondent, as illegal, arbitrary and without jurisdiction; Award costs, and pass such other or further orders, as are deemed fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR.K.RAGHUVEER REDDY

Counsel for the Respondent No.1 : GP FOR REVENUE

Counsel for the Respondent No.2 : MR.V.RAVI KIRAN RAO

The Court made the following :

ORDER :

Heard learned Counsel for the parties.

The grievance of the petitioners is that though the 1st petitioner had been granted Occupancy Certificate under Section 4 of the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 (hereinafter referred to as 'the Act') after conducting an enquiry under Section 10 of the Act, but the 2nd respondent had moved an appeal before the 1st respondent after 14 years, who cancelled the occupancy certificate of the 1st petitioner and ordered issuance of occupancy certificate in favour of 2nd respondent. The learned Counsel for petitioners submit that the 1st respondent-Joint Collector has no jurisdiction to hear appeals in terms of Section 24 of the Act. It is the Collector, who has the jurisdiction to hear the appeal. The learned Counsel for the 2nd respondent however submits that though in the order it has been termed as an appeal, but it is an order under Section 10 of the Act. This argument is not tenable on the ground that once an enquiry is conducted under Section 10 of the Act and in pursuance of that, an occupancy certificate had been issued, that can only be challenged by way of an appeal and not by way of an application before the same authority. Therefore, the order passed by

the 1st respondent-Joint Collector is clearly without jurisdiction, which is accordingly set aside and the Writ Petition is allowed.

However, the learned Counsel for 2nd respondent submits that his grandfather was also issued occupancy certificate under Section 38-E of the Act, which was suppressed. Keeping in view of these facts and keeping in view the interest of justice, I allow the 2nd respondent to file an appeal before appropriate authority within a period of four weeks from today, who may pass orders after hearing the parties.

Writ Petition is allowed accordingly. No order as to costs.

3rd February, 2005 BILAL NAZKI, J

N.B:-

Copy be furnished within a week.

(B/o)

ajr

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice, on this Thursday, the Third Day of February, Two Thousand and Five.

To

1. The Joint Collector, Nizambad, Nizamabad District.
2. Two C.Cs. to the GP for Revenue, High Court of A.P., Hyderabad (OUT)
3. Two C.D. copies.
4. Lambada Ramulu S/o. Late Sakru, R/o. Paramalla Village,
   Lingampet Mandal, Nizamabad District.